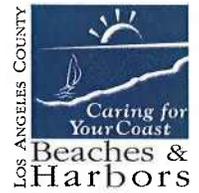




*"To enrich lives through effective and caring service"*



**Stan Wisniewski**  
Director

**Kerry Silverstrom**  
Chief Deputy

January 17, 2006

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**CONSENT TO ASSIGNMENT OF LEASEHOLD INTEREST  
PARCEL 33R - MARINA DEL REY – HARBOR HOUSE RESTAURANT  
(FOURTH DISTRICT)  
(3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Find that the approval of the proposed assignment of Lease No. 10665 affecting the leasehold interest in Parcel 33R is categorically exempt under the provisions of the California Environmental Quality Act pursuant to Classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Approve and authorize the Mayor to renew the County's prior consent to the proposed assignment by executing the attached Consent to Assignment of Lease (Consent) for Parcel 33R from Marina Investment Company (MIC), a joint venture, to The Waterfront - MDR, LLC (Waterfront), a Delaware limited liability company, formerly known as The Waterfront-Marina del Rey, LLC.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On June 21, 2005, your Board consented to the assignment of Parcel 33R in Marina del Rey from MIC to Waterfront. Despite the efforts of MIC and Waterfront, they were unable to conclude the final details of the assignment prior to August 5, 2005, the expiration date of your Board's Consent. The parties have completed all necessary actions precedent to

the proposed transfer and are now in a position to effect the assignment. Your Board's renewed consent to the assignment is, therefore, required.

The Consent to Assignment is contingent upon Waterfront's execution of Amendment No. 6 to Lease No. 10665 (Amendment), which defines those changes in ownership and control of a limited liability company that will be considered events of assignment requiring the County's prior consent. The Board previously approved the Amendment and authorized the Mayor to execute the Amendment upon its presentation by the Director of the Department of Beaches and Harbors to the Executive Officer of the Board.

Marina del Rey leases provide that the County's consent is required on most lease assignments and that such consent may not be unreasonably withheld. Department policy provides that the County's approval or denial of any assignment will be based on one or more of the following: a) the financial condition of the assignee; b) the price to be paid for the leasehold as it relates to the improvements or potential development thereon; and c) the management of the leasehold by the new lessee being in the best interest of the whole Marina.

Our review has found that:

a) The proposed assignee, Waterfront, is a Delaware limited liability company formed for the purpose of owning and operating the Parcel 33R leasehold. Waterfront is to be capitalized through members' contributions of \$1,480,000 in equity and \$4,750,000 in debt, both on a pro forma basis. The proposed financing for the leasehold purchase is expected to be provided by Western Financial Bank. Furthermore, Waterfront and MIC have agreed, as a condition of the assignment, to provide additional cash assets to the capitalization in the amount of \$956,000 to ensure the payment of rent to the County and other leasehold obligations, as well as the correction of certain specified maintenance items on the leasehold. The proposed capitalization of the assignee relative to the leasehold finances demonstrates adequate financial condition on the part of the assignee to provide for the continued operation and maintenance of the leasehold.

b) The leasehold purchase price is \$4,700,000 (excluding sale contract extension payments). The sales price, as reviewed by the Department, is higher than what would be justified if based solely on the present income generated on the leasehold by the current use. However, Waterfront has advised that the price is justified by the leasehold's future development potential it believes is feasible with a lease extension and in conjunction with development of the adjacent County parking lot, Parcel NR. Waterfront was the successful respondent as to Parcel NR in the "Request for Proposals for Development of Hotel and/or Other Uses on Parcels GR, IR and NR in Marina del Rey", and your Board approved the exclusive right to negotiate with Waterfront for a ground lease and mixed-use development project. We have reminded the assignee that there is no guarantee that a lease extension

for this leasehold or approvals for an overall development plan for combined Parcels 33R and NR will be granted by the County. In addition, the County has advised, and Waterfront has agreed, that the County will utilize its lower assessment of value for the leasehold as the baseline for computing its extension fee and for determining net proceeds of sale or financing in the event that an extended lease is negotiated.

c) The proposed property manager, EMC Development, a California limited liability company (EMC) (an affiliate of the assignee), is recognized as an experienced multi-family and mixed-use developer and manager. In addition, Waterfront intends to contract with the existing restaurant operator for the continued operation of the restaurant facilities.

#### Implementation of Strategic Plan Goals

The recommended action is consistent with the County's Strategic Plan Goal, Service Excellence, in that it allows the transfer of the leasehold interest from one legal entity to another to accommodate completion of a bona fide financial transaction, while maintaining appropriate management of the leasehold.

#### **FISCAL IMPACT/FINANCING**

No cost to County.

#### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On May 4, 1966, the County entered into a 60-year lease for Parcel 33R, Harbor House Restaurant. The parcel consists of approximately 94,969 square feet of land and 13,043 square feet of water area. It is improved with two restaurants, the Harbor House Restaurant and Edie's Diner, and a dock.

The proposed assignee, Waterfront, is a single purpose entity created to hold and operate the leasehold interest. Waterfront is 99% owned by Edward M. Czucker, an individual, and 1% owned by EMC, with Edward M. Czucker as the primary principal. The managing member of Waterfront is EMC. The leasehold will be managed by EMC, which is experienced in managing a large portfolio of multi-family residential and mixed-use projects.

The proposed assignee, Waterfront, has agreed to assume the responsibility for the outstanding lease and maintenance obligations, as well as rent obligations that may have arisen from the date of the last audit.

The Consent has been approved as to form by County Counsel.

The Honorable Board of Supervisors  
January 17, 2006  
Page 4

**ENVIRONMENTAL DOCUMENTATION**

The approval of the proposed assignment of the lease is categorically exempt under the provisions of the California Environmental Quality Act pursuant to Classes 1(r) and 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Not applicable.

**CONCLUSION**

Please have the Mayor execute three copies of the Consent and instruct the Executive Officer of the Board to acknowledge the Mayor's signature. Return two executed copies of the Consent to the Department, retaining one executed copy for your files.

Please return to the Department an approved copy of this letter.

Respectfully submitted,



Stan Wisniewski  
Director

SW:CM:ms  
Attachments (1)

c: Chief Administrative Officer  
Executive Officer, Board of Supervisors  
County Counsel

## CONSENT TO ASSIGNMENT OF LEASE

THE COUNTY OF LOS ANGELES ("County"), lessor under that certain lease No. 10665, dated May 4, 1966, as amended ("Lease"), applicable to that certain premises known as Parcel 33R, Marina del Rey Small Craft Harbor, described in Exhibit A attached hereto and incorporated herein by this reference, does hereby consent to the assignment of said Lease by the present lessee, MARINA INVESTMENT COMPANY, a joint venture ("Marina Investment"), to THE WATERFRONT – MDR, LLC, a Delaware limited liability company ("The Waterfront"), formerly known as The Waterfront-Marina del Rey, LLC, in accordance with that certain Assignment of Lease and Deed and that certain Acceptance of Assignment of Lease prepared in connection with the proposed assignment contemplated thereby (the "Assignment"). County further agrees that upon the effective date of said Assignment, Marina Investment shall be fully relieved of, and released from, any and all obligations to County under the Lease accruing on or after the effective date of said Assignment. It is further understood and agreed that County's consent to the Assignment is subject to the following express conditions:

A. This Consent to Assignment shall be voidable by the County, until and unless the Assignment is complete and irrevocable in all respects within 60 days after the date of execution on behalf of the County of this Consent to Assignment of Lease.

B. This Consent to Assignment is contingent upon The Waterfront's assumption and agreement to perform all obligations past, present and future, created by the terms, covenants and conditions of said Lease on the part of the lessee therein named to be performed, as set forth in the Acceptance of Assignment relating to the Assignment, and as otherwise required under the Lease.

C. This Consent to Assignment is contingent upon The Waterfront's execution and prompt delivery to County of Amendment No. 6 to the Lease, a copy of which is attached hereto as Exhibit B, immediately following the close of the escrow created between Marina Investment and The Waterfront in connection with the Assignment.

D. This Consent is contingent upon County's receipt, prior to the County's execution of this Consent, of evidence of cash assets of Assignee in the minimum amount of \$956,000 available for use as described in the Acceptance of Assignment of Lease attached to the Assignment.

E. The Assignment, having once become complete and irrevocable in all respects, shall thereafter be fully binding upon The Waterfront whether or not Marina Investment and The Waterfront have entered into a separate agreement

or understanding to which the County is not a party and which provides for or otherwise purports to affect the Assignment, and whether or not in such event any party thereto alleges, claims or otherwise shows or proves that there has been a breach, default, violation, or termination of any such separate agreement.

G. The Waterfront shall not make any further assignment or sublease of the Lease, nor any portion thereof, without the written consent of the County as lessor having first been obtained thereto in accordance with, and to the extent required by, the provisions of Section 22.C. of the Lease.

Dated the \_\_\_ day of \_\_\_\_\_, 2006.

COUNTY OF LOS ANGELES

By: \_\_\_\_\_  
Mayor, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS,  
Executive Officer of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM

RAYMOND G. FORTNER, JR.,  
County Counsel

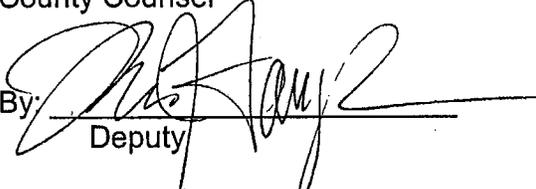
By:  \_\_\_\_\_  
Deputy

EXHIBIT A

LEGAL DESCRIPTION

Marina Del Rey  
Lease Parcel No. 33R

Parcels 490 to 493 inclusive, and 537 to 541 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, recorded in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said county.

Excepting therefrom that portion thereof which lies within the following described boundaries:

Beginning at a point in the southerly line of said Parcel 541 distant North  $85^{\circ}59'32''$  East thereon 145.00 feet from the southwesterly corner of said last mentioned parcel; thence North  $4^{\circ}00'28''$  West to the northwesterly line of said last mentioned parcel; thence northeasterly and easterly along said northwesterly line and the northerly line of said last mentioned parcel to the center line of that certain 20 foot easement for fire access, storm drain and harbor utilities purposes, in said Parcels 537 and 540; as said center line is shown on said map; thence northerly along said center line to the northwesterly line of said Parcel 537; thence northeasterly along said last mentioned northwesterly line to the northeasterly corner of said last mentioned parcel; thence southerly along the easterly lines of said Parcels 537, 540 and 541 to the southeasterly corner of said Parcel 541; thence westerly along the southerly line of said last mentioned parcel to the point of beginning.

Also reserving and excepting therefrom unto the County of Los Angeles, easements for sanitary sewer, storm drain, fire access and harbor utility purposes over those portions thereof designated on said map to be reserved by said county for such purposes.

DESCRIPTION APPROVED  
NOV 19 1964

JOHN A. LAMBIE

County Engineer

BY *Alvin J. Tuttle* DEPUTY